



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 5231-00
19 January 2001

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 10 August 1972 at age 19. On 11 January 1973 you were arrested by Japanese authorities. On 24 June 1973 you were convicted in Japanese civil court of rape and causing injury through rape. The court sentenced you to three years of confinement at hard labor.

Based on your conviction you were processed for an administrative discharge. Although your record is incomplete, it appears that you elected to have your case heard by an administrative discharge board. On 23 July 1974 the discharge authority directed an undesirable discharge which was to be held in abeyance until your release from confinement. You were released from prison on 15 October 1975 and the undesirable discharge was issued on 24 October 1975.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education and low score on the aptitude test. The Board also considered your contentions that you have been a good citizen for many years and that you need a better discharge so you can obtain

veterans benefits. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your conviction of a serious offense. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director